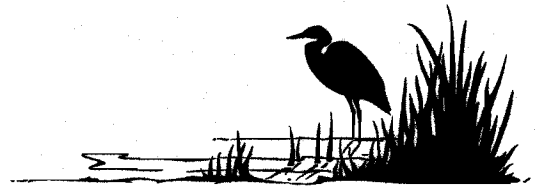


Document Name	COMPLAINT: NORTHERN CALIFORNIA RIVER WATCH V. CHEVRON U.S.A.
Author	Woolner, Rhodora
Document Type	Pleading
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Co-Council	
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February 17, 2009

Citizen Suit Coordinator
U.S. Dept. of Justice
Environmental & Natural Resource Division
Law and Policy Section
P.O. Box 4390
Ben Franklin Station
Washington, DC 20044-4390

DEPT. OF JUSTICE - ENRD
ENVIRONMENT DIVISION
9 FEB 20 P 3:44

Re: *Northern California River Watch v. Chevron U.S.A., Inc., et al*
United States District Court Case No: C09-00669 JCS

Dear Sir or Madam:

In accordance with requirements of 33 USC §1365(c)(3), we are enclosing for your files a copy of the Complaint in the above-entitled action filed by this office with the U.S. District Court, Northern District of California on February 13, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Silver". The signature is stylized with a large, looped "J" and a long, sweeping underline that extends to the right.

Jack Silver

JS:lmh
Enclosure

PAGE
BREAK

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5 Tel. (707) 528-8175
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8 Attorneys for Plaintiff
9 NORTHERN CALIFORNIA RIVER WATCH

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 NORTHERN CALIFORNIA RIVER
14 WATCH, a non-profit corporation,

CASE NO. C09-00669 JCS

PROOF OF SERVICE

Plaintiff,

v.

14 CHEVRON U.S.A., INC., CHEVRON
15 CORPORATION, et al,

Defendants

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PROOF OF SERVICE

I am employed in the County of Sonoma, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 100 E Street, Suite 202, Santa Rosa, CA 95404. On February 17, 2009 I served the following described document(s):

**Complaint for Injunctive Relief, Civil Penalties, Restitution and Remediation
[Environmental - Clean Water Act - 33 U.S.C. § 1251 et seq.; RCRA - 42 U.S.C.
§ 6901 et seq.]**

on the following parties by placing a true copy in a sealed envelope, addressed as follows:

Citizen Suit Coordinator
U.S. Dept. of Justice
Environmental & Natural Resource Division
Law and Policy Section
P.O. Box 4390
Ben Franklin Station
Washington, DC 20044-4390


Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

☒ (BY MAIL) I placed each such envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at Santa Rosa, California, following ordinary business practices. I am readily familiar with the practices of Law Office of Jack Silver for processing of correspondence; said practice being that in the ordinary course of business, correspondence is deposited with the United States Postal Service the same day as it is placed for processing.

☐ (BY FACSIMILE) I caused the above referenced document(s) to be transmitted by Facsimile machine (FAX) 707-528-8675 to the number indicated after the address(es) noted above.

☐ (BY ELECTRONIC SERVICE) [FRCP Rule 5(b)(2)(a)] I caused a true and correct copy to be electronically mailed through my electronic mail system to the electronic mail addresses set forth on the attached Service List per agreement in accordance with FRCP Rule 5(b).

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this declaration was executed on February 17, 2009 at Santa Rosa, California.


WOJCIECH P. MAKOWSKI

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**ORIGINAL
FILED**

FEB 13 2009

8 Attorneys for Plaintiff
9 NORTHERN CALIFORNIA RIVER WATCH

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

E-filing
JCS

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 NORTHERN CALIFORNIA RIVER
13 WATCH, a non-profit corporation,

CASE NO. 06-69

0069

14 Plaintiff,

15 v.

**COMPLAINT FOR INJUNCTIVE
RELIEF, CIVIL PENALTIES,
RESTITUTION AND REMEDIATION**

16 CHEVRON U.S.A., INC., CHEVRON
17 CORPORATION, and DOES 1 - 10,
18 Inclusive,

[Clean Water Act, 33 U.S.C. § 1251 et seq.,
Resource Conservation and Recovery
Act 42 U.S.C. § 6901 et seq.]

19 Defendants.
20 _____/

21
22 NOW COMES Plaintiff, NORTHERN CALIFORNIA RIVER WATCH (hereafter, "RIVER
23 WATCH"), by and through its attorneys, and for its Complaint against defendants, CHEVRON U.S.A.,
24 INC., CHEVRON CORPORATION, and DOES 1-10, Inclusive (hereafter, "CHEVRON"), states as
25 follows:
26

27 **I. NATURE OF CASE**

28 1. This is a civil suit brought by RIVER WATCH against CHEVRON, and as yet unidentified
DOES under the citizen suit enforcement provisions of the Federal Water Pollution Control Act, also
known as the Clean Water Act (hereafter "CWA"), 33 U.S.C. § 1251 et seq, and specifically CWA §
505, 33 U.S.C. §§ 1311, 1342 and 1365, to stop CHEVRON from repeated and ongoing violations of
the CWA. These past and currently ongoing violations are detailed in the Notice of Violations and Intent

Complaint for Injunctive Relief

1 to File Suit which is made part of the pleadings of this case and attached hereto as Exhibit A (hereafter
2 "CWA Notice").

3 2. RIVER WATCH contends that In the course of its ownership and or operation of one or more
4 of the underground storage tank ("UST") facilities identified herein and as described in detail in the
5 attached CWA Notice, CHEVRON is routinely violating the CWA's prohibitions against discharging
6 a pollutant from a point source to waters of the United States without an NPDES permit. See CWA §
7 301(a), 33 U.S.C. § 1311(a). RIVER WATCH alleges CHEVRON has violated effluent standards or
8 limitations by allowing petroleum hydrocarbons above State of California Maximum Contaminant
9 Levels to be released and discharged into waters of the United States, and specifically into Rohner Creek
10 and/or the Eel River and Boles Creek.

11 3. RIVER WATCH contends CHEVRON is also routinely violating the CWA's prohibition against
12 discharging a pollutant from a point source to waters of the United States without a National Pollutant
13 Discharge Elimination System ("NPDES") permit by permitting petroleum hydrocarbons and petroleum
14 constituents to persist in soil and groundwater at each of the facilities identified herein, by failing to
15 comply with directives issued by the Regional Water Quality Control Board North Coast Region, and
16 by failing to implement an adequate Corrective Action Plan to rededicate the pollution at the facilities.

17 4. Specifically, this Complaint seeks relief under these statutory provisions for CHEVRON's
18 discharge of pollution from current and/or former fuel dispensing facilities and properties at the
19 following locations:

20 Former Unocal Bulk Plant, 359 Main Street, Fortuna, California,

21 Chevron Station #9-3476, 12 Weed Boulevard South, Weed, California,

22 (hereafter collectively, "Facilities") into the waters of the State of California and the United States in
23 violation of the above-enumerated statutes and laws.

24 5. RIVER WATCH contends CHEVRON illegally discharges to waters of the United States which
25 are habitat for threatened or endangered species as that term is defined by the California and the United
26 States Environmental Protection Agency ("EPA").

1 6. Under 33 U.S.C. § 1251(e), Congress declared its goals and policies with regard to public
2 participation in the enforcement of the CWA. 33 U.S.C. §1251(e) provides, in pertinent part:

3 Public participation in the development, revision, and enforcement of any regulation,
4 standard, effluent limitation, plan or program established by the Administrator or any

5 State under this chapter shall be provided for, encouraged, and assisted by the
6 Administrator and the States.

7 7. This is also a civil suit brought by RIVER WATCH against CHEVRON under the enforcement
8 provisions of the Resource Conservation and Recovery Act, (hereafter, "RCRA"), 42 U.S.C. § 6901 et
9 seq., specifically RCRA § 7002 (a)(1)(A), 42 U.S.C. § 6972(a)(1)(A) and RCRA § 7002 (a)(1)(B), 42
10 U.S.C. § 6972(a)(1)(B), to stop CHEVRON from repeated and ongoing violations of the RCRA. These
11 violations are detailed in the Notice of Violations and Intent to File Suit which is made part of the
12 pleadings of this case and attached hereto as Exhibit B (hereafter "RCRA Notice").

13 8. RIVER WATCH contends CHEVRON's use and storage of petroleum and other pollutants at
14 the Facilities, as described in detail in the attached RCRA Notice, regularly violates standards,
15 regulations, conditions, requirements or prohibitions effective pursuant to the RCRA regarding storage
16 of petroleum and like pollutants. [42 U.S.C. § 6972(a)(1)(A)].

17 9. RIVER WATCH contends CHEVRON is routinely violating the RCRA's prohibition against
18 creating an imminent and substantial endangerment to human health and the environment by its
19 operations at the Facilities, as described in the attached RCRA Notice, which have caused contamination
20 of soil, groundwater and surface water. [42 U.S.C. § 6972(a)(1)(B)].

21 10. Pollutants at the Facilities leach into groundwater from current and former underground storage
22 tanks which have either been removed from or abandoned at the Facilities without adequate measures
23 taken to remove pollutants from soil and groundwater.

24 11. RIVER WATCH contends CHEVRON is also routinely violating the Basin Plan provisions with
25 respect to (1) pollution remediation, (2) EPA regulations codified in the Code of Federal Regulations,
26 (3) toxics standards promulgated by the California State Water Resource Control Board, and (4) by
27 failing to implement an adequate and comprehensive Corrective Action Plan to remediate the
28 contamination at each of its Facilities.

1 12. RIVER WATCH seeks declaratory relief, injunctive relief to prohibit future violations, the
2 imposition of civil penalties, and other relief for CHEVRON's violations of the CWA's prohibition of
3 discharging a pollutant from a point source to waters of the United States without a NPDES permit, for
4 CHEVRON's violations of the RCRA's standards and regulations applicable to the use and storage of
5 petroleum and other pollutants, and for CHEVRON's violation of the RCRA's prohibition against
6 creating an imminent and substantial endangerment to human health and the environment.

7
8 **II. JURISDICTIONAL ALLEGATIONS**

9 13. Subject matter jurisdiction is conferred upon this Court by Section 505(a)(1) of the CWA, 33
10 U.S.C. § 1365(a)(1), which states in part,

11 "any citizen may commence a civil action on his own behalf against any person . . . who
12 is alleged to be in violation of (A) an effluent standard or limitation . . . or (B) an order
issued by the Administrator or a State with respect to such a standard or limitation."

13 For purposes of Section 505, "the term 'citizen' means a person or persons having an interest
14 which is or may be adversely affected."

15 14. Subject matter jurisdiction is conferred upon this Court by RCRA § 7002(a)(1), 42 U.S.C. §
16 6972(a)(1), which states in part,

17 "...any person may commence a civil action on his own behalf (A) against any person ...
18 who is alleged to be in violation of any permit, standard, regulation, condition,
19 requirement, prohibition or order which has become effective pursuant to this chapter, or
20 (B) against any person ...who has contributed or who is contributing to the past or present
handling, storage, treatment, transportation or disposal of any solid or hazardous waste
which may present an imminent and substantial endangerment to health or the
environment."

21 15. Members and supporters of RIVER WATCH reside in the vicinity of, derive livelihoods from,
22 own property near, and/or recreate on, in or near and/or otherwise use, enjoy and benefit from the
23 waterways and associated natural resources into which CHEVRON discharges pollutants, or by which
24 its operations adversely affect those members' interests, in violation of CWA § 301(a), 33 U.S.C. §
25 1311(a), RCRA § 7002(a)(1)(A), 42 U.S.C. § 6972(a)(1)(A) and RCRA §7002 (a)(1)(B), 42 U.S.C.
26 § 6972(a)(1)(B). The health, economic, recreational, aesthetic and environmental interests of RIVER
27 WATCH and its members have been, are being, and will continue to be adversely affected by
28

1 CHEVRON's unlawful violations. RIVER WATCH contends there exists an injury in fact to its
2 members, causation of that injury by CHEVRON's complained of conduct, and the likelihood that the
3 requested relief will redress that injury.

4 16. Pursuant to CWA § 505(b)(1)(A), 33 U.S.C. § 1365(b)(1)(A), RIVER WATCH gave notice of
5 the CWA violations alleged in this Complaint more than sixty (60) days prior to commencement of this
6 lawsuit, to: (a) CHEVRON (b) the United States EPA, Federal and Regional, and (c) the State of
7 California Water Resources Control Board.

8 17. Pursuant to CWA § 505(c)(3), 33 U.S.C. § 1365(c)(3), a copy of this Complaint shall be served
9 on the United States Attorney General and the Administrator of the Federal EPA.

10 18. Pursuant to RCRA § 7002 (2)(A), 42 U.S.C. § 6972(2)(A), River Watch gave notice of the RCRA
11 violations alleged in this Complaint more than ninety (90) days prior to the commencement of this
12 lawsuit to: (a) CHEVRON, (b) the United States EPA, both Federal and Regional, (c) the State of
13 California Water Resources Control Board, and (d) the State of California Integrated Waste Management
14 Board.

15 19. Pursuant to CWA § 505(c)(1), 33 U.S.C. § 1365(c)(1), venue lies in this District as the Facilities
16 identified herein have been and remain under CHEVRON's ownership and/or control, and the Facilities
17 where illegal discharges occurred, which are the source of the violations complained of in this action,
18 are each located within this District.

19 20. The basis for assignment of this case to the Northern District of California, pursuant to RCRA
20 § 7002(a) & (b), 42 U.S.C. §§ 6972(a)&(b), is that the Facilities are located in this District.

22 **III. PARTIES**

23 21. Plaintiff RIVER WATCH is a 501(c)(3) non-profit public benefit corporation duly organized
24 under the laws of the State of California. Its headquarters are located in Sebastopol, California. RIVER
25 WATCH is dedicated to protecting, enhancing and helping to restore the waters of Northern California,
26 including its drinking water sources, ground water, rivers, creeks and tributaries.

1 22. Members of RIVER WATCH live in Northern California, including Humboldt and Siskiyou
2 Counties, where the above-referenced Facilities under CHEVRON's operation and/or control are located,
3 and live nearby to waters affected by CHEVRON's illegal discharges as described in this Complaint.
4 Said members have interests which are or may be adversely affected by CHEVRON's violations of the
5 CWA and the RCRA as set forth in this Complaint. Said members use the affected watershed for
6 domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking,
7 photography, nature walks and the like. Furthermore, the relief sought will specifically redress the
8 injuries in fact, the likelihood of future injuries and interference with the interests of RIVER WATCH's
9 members.

10 23. RIVER WATCH is informed and believes and on said information and belief alleges that
11 Defendant CHEVRON U.S.A., INC. is a corporation registered as such with the State of California, and
12 doing business in San Ramon, California under the name of CHEVRON U.S.A., INC.

13 24. RIVER WATCH is informed and believes and on said information and belief alleges that
14 Defendant CHEVRON CORPORATION is a corporation registered as such with the State of California,
15 and doing business in San Ramon, California under the name of CHEVRON CORPORATION.

16 25. Defendants DOES 1-10, Inclusive, respectively, are persons, partnerships, corporations and
17 entities, who are, or were, responsible for, or in some way contributed to, the violations which are the
18 subject of this Complaint, or are, or were responsible for the maintenance, supervision, management,
19 operations, or insurance coverage of the Facilities and or CHEVRON's operations as identified and
20 described in this Complaint. The names, identities, capacities, and functions of DOES 1-10, Inclusive,
21 are presently unknown to RIVER WATCH. RIVER WATCH shall seek leave of court to amend this
22 Complaint to insert the true names of said DOES when their identities and capacities have been
23 ascertained.

24
25 **IV. STATEMENT OF FACTS**

26 26. CHEVRON owns and/or operates or has legal responsibility for the remediation of the former
27 UST Facilities identified in Paragraph 4 of this Complaint, due to the presence of petroleum
28

1 hydrocarbons which have leaked or otherwise escaped from the Facilities. The Facilities have been
2 identified as a source of pollutants which pose a threat to human health and/or to the local environment
3 since at least the early 1970s with respect to the Fortuna site, and the mid 1980s with respect to the Weed
4 site.

5 27. In the past CHEVRON has stored and currently stores (at the Weed site), large quantities of
6 petroleum products in USTs at the Facilities. Petroleum contamination was first detected in soil and
7 groundwater beneath the Facilities at Fortuna in the early 1970s, and in soil and groundwater beneath
8 the Facilities at Weed in the mid 1980s. Subsequent investigation at each of the sites indicated the
9 contamination was and is attributable to unauthorized releases from USTs and piping systems, surface
10 spills and/or poor maintenance or operational practices.

11 28. CHEVRON has used and/or stored petroleum at the Facilities in a manner which has allowed
12 significant quantities of hazardous petroleum constituents, including MTBE, to be discharged to soil
13 and groundwater beneath the Facilities and beneath adjacent properties, and also into surface waters of
14 the United States. RIVER WATCH contends these unauthorized discharges are ongoing and continuing
15 at the present time.

16 29. CHEVRON has conducted some site investigation and remedial work at the Facilities. Based
17 upon current levels of contamination, however, RIVER WATCH contends CHEVRON has been
18 unsuccessful in abating the contamination. To date, the levels of TPHg, benzene, toluene, ethylbenzene,
19 and xylenes remain high above the State of California's allowable Maximum Contaminant Levels and/or
20 Water Quality Objectives for said constituents, creating an imminent and substantial endangerment to
21 public health and the environment. Significant quantities of MTBE are also being detected in soil and
22 groundwater beneath the Facilities and adjacent properties, creating an imminent and substantial
23 endangerment to public health and the environment.

24 30. The discharges and releases by CHEVRON as alleged in the RCRA Notice (Exhibit B) are both
25 knowing and intentional. CHEVRON has used, stored and sold petroleum products at the Facilities
26 which are known to contain benzene, toluene, TPHg, ethylbenzene, xylenes, and/or MTBE, and intends
27 or has intended that such products be sold to and used by the public. RIVER WATCH contends
28

1 CHEVRON has known of the contamination at the Facilities since at least since the 1970s and 1980s
2 as noted above, and is also aware that failing to remediate the pollution allows the contamination to
3 migrate through soil and groundwater at and adjacent to the Facilities, and to continually contaminate
4 and re-contaminate actual and potential sources of drinking water.

5 31. Regulatory agencies have ordered CHEVRON to investigate and remediate petroleum
6 contamination at the Facilities following the discovery of petroleum releases. CHEVRON has conducted
7 some investigative and remedial work at the Facilities in response to Regulatory agencies' directives;
8 however, significant levels of petroleum contamination remain in soil and groundwater beneath and
9 adjacent to the Facilities.

10 32. Regulatory agencies have designated surface and ground waters in the area of California at and
11 near the Facilities as capable of supporting domestic supply, and have established maximum contaminant
12 levels for petroleum constituents for said waters.

13 33. Benzene and toluene are known carcinogens and/or reproductive toxins, and have been listed
14 chemicals under Proposition 65 since at least 1991. Surface and groundwater at the Facilities are
15 potential sources of drinking water under applicable Regional Water Quality Control Board Water
16 Quality Control Plans (also known as Basin Plans). RIVER WATCH contends that in the course of
17 doing business, CHEVRON has discharged benzene and toluene to surface and groundwater at the
18 Facilities since the early 1970s and mid 1980s and thereafter on a continuing basis.

19 34. The illegal discharges and activities of CHEVRON as complained of in this Complaint occur at
20 the Facilities as well as in the waterways identified in the attached CWA Notice Letter, all of which are
21 waters of the United States. The Regional Water Quality Control Board, North Coast Region, has
22 determined that said affected waterways and watershed areas are beneficially used for drinking water,
23 water contact recreation, non-contact water recreation, fresh water habitat, wildlife habitat, preservation
24 of rare and endangered species, fish migration and spawning, industrial service supply, navigation and
25 sport fishing.

26 35. Violations of the CWA and the RCRA as alleged in this Complaint are a major cause of the
27 continuing decline in water quality, and a continuing threat to existing and future drinking water supplies
28

1 in Northern California. With every discharge, groundwater supplies are contaminated. These discharges
2 can and must be controlled in order for the groundwater supply to be returned as a safe source of
3 drinking water.

4 5 **V. STATUTORY AND REGULATORY BACKGROUND**

6 **A. Clean Water Act**

7 36. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a
8 "point source" into the navigable waters of the United States, unless such discharge is in compliance
9 with applicable effluent limitations as set by the EPA and the applicable State regulatory agency. These
10 limits are to be incorporated into an NPDES permit specifically for that point source. Additional sets
11 of regulations are set forth in the Basin Plan, California Toxics Plan, the Code of Federal Regulation and
12 other regulations promulgated by the EPA and the State Water Resources Control Board. Section 301(a)
13 of the CWA prohibits discharges of pollutants or activities not authorized by, or in violation of an
14 effluent standard or limitation or an order issued by the EPA or a State with respect to such a standard
15 or limitation including a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342..
16 The Facilities owned, operated, leased or managed by CHEVRON are point sources under the CWA.

17 37. The affected waterways detailed in this Complaint and in the attached CWA Notice are
18 navigable waters of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. §
19 1362(7).

20 38. The Administrator of the EPA has authorized the Regional Water Quality Control Board to issue
21 NPDES permits, subject to specified conditions and requirements, pursuant to Section 402 of the CWA,
22 33 U.S.C. § 1342.

23 39. RIVER WATCH contends CHEVRON has no NPDES Permit for discharging hydrocarbon
24 contamination from the UST Facilities into waters of the United States. All unauthorized point source
25 discharges to waters of the United States are illegal. The Facilities are each point sources. Discharges
26 from such point sources via tributary ground waters to waters of the United States, without an NPDES
27 Permit, are illegal.

1 **B. Resource Conservation and Recovery Act**

2 40. RCRA § 7002(a)(1)(A), 42 U.S.C. § 6972(a)(1)(A) permits an action against any person who
3 violates a PERMIT, STANDARD or REGULATION pursuant to the RCRA. RIVER WATCH
4 contends CHEVRON has stored, handled and disposed of materials containing petroleum, petroleum
5 constituents, and other toxic pollutants, defined as hazardous wastes under the RCRA, in a manner
6 which has allowed these pollutants to be discharged to soil and groundwater beneath and adjacent to the
7 Facilities, in violation of regulations regarding the use and disposal of hazardous wastes. [RCRA § 3004
8 (d), 42 U.S.C. §6924(d)].

9 41. RIVER WATCH contends CHEVRON has violated provisions of the RCRA governing the use
10 and operation of USTs used for the storage of petroleum products (subchapter IX, 42 U.S.C. § 6991 et
11 seq.). CHEVRON has had unauthorized petroleum hydrocarbon releases at the Facilities and has
12 removed and/or abandoned USTs on the Facilities used for the storage of petroleum without
13 implementing required and effective cleanup and abatement measures. RIVER WATCH contends that
14 at the Weed site, CHEVRON engages in ongoing, retail petroleum delivery operations which further
15 complicate the remediation process at that location.

16 42. RCRA § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B) permits an action against any person who
17 has contributed or is contributing to the past or present handling of any solid or hazardous waste which
18 may present an imminent and substantial endangerment to health or the environment. RIVER WATCH
19 contends the petroleum constituents, and other pollutants identified in the attached RCRA Notice, have
20 been or are being discharged at the Facilities in concentrations significantly greater than allowable
21 Maximum Contaminant Levels and/or Water Quality Objectives and are hazardous wastes pursuant to
22 RCRA § 6903(5), 42 U.S.C. § 6972 (5). Pollutants from these substances have leached into soil and
23 ground water beneath and adjacent to the Facilities, creating an imminent and substantial endangerment
24 to health and the environment.

25 43. Point source discharged by CHEVRON at the Facilities which are not regulated by an NPDES
26 Permit have violated the CWA's prohibition against discharge of pollutants from a point source without
27 a NPDES Permit. The violations are established in Regional Water Quality Control Board files for each
28

1 of the Facilities, as well as in studies conducted by or for CHEVRON in compliance with orders from
2 the Regional Water Quality Control Board or other regulatory agencies. The enumerated violations are
3 detailed in the CWA Notice, incorporated herein by reference, and designate the section of the CWA
4 violated by the described activities.

5 44. CHEVRON's discharges to soil and groundwater violate regulations of the RCRA regarding the
6 storage and disposal of hazardous wastes. The violations are established in Regional Water Quality
7 Control Board files for the Facilities as well as in studies conducted by CHEVRON in compliance with
8 orders from the Regional Water Quality Control Board or other regulatory agencies.

9 45. RIVER WATCH contends discharges by CHEVRON to soil and ground water at the Facilities
10 have violated the RCRA's prohibition against creating an imminent and substantial endangerment to
11 health and the environment. The violations are established in Regional Water Quality Control Board
12 files the Facilities as well as in studies conducted by CHEVRON in compliance with orders from the
13 Regional Water Quality Control Board or other regulatory agencies. The enumerated violations are
14 detailed in the RCRA Notice, incorporated herein by reference, and designate the section of the RCRA
15 violated by the described activities.

16 17 **VI. CLAIMS FOR RELIEF**

18 **A. FIRST CLAIM FOR RELIEF - Violations of the CWA**

19 **33 U.S.C. §§ 1342 (a) and (b), 33 U.S.C. § 1311**

20 46. RIVER WATCH incorporates the allegations set forth above in Paragraphs 1 through 45 and
21 Exhibit A as though fully set forth herein. RIVER WATCH is informed and believes, and based on such
22 information and belief alleges:

23 47. CHEVRON has violated and continues to violate the CWA as evidenced by the discharge of
24 hydrocarbon pollutants from a point source without a NPDES permit in violation of CWA § 301, 33
25 U.S.C. § 1311.

26 48. The violations of CHEVRON as alleged in this Complaint are ongoing and will continue after
27 the filing of this Complaint. RIVER WATCH alleges herein all violations of the CWA which may have
28 occurred or will occur prior to trial, but for which data may not have been available or submitted or

1 apparent from the face of the reports or data submitted by CHEVRON to the Regional Water Quality
2 Control Board or to RIVER WATCH prior to the filing of this Complaint. RIVER WATCH will file
3 amended complaints, if necessary, to address CHEVRON's State and Federal violations which may
4 occur after the filing of this Complaint. Each of CHEVRON's violations is a separate violation of the
5 CWA.

6 49. RIVER WATCH avers and believes and on such belief alleges, that without the imposition of
7 appropriate civil penalties and the issuance of appropriate equitable relief, CHEVRON will continue
8 to violate the CWA as well as State and Federal standards with respect to the discharges and releases
9 described herein. RIVER WATCH avers and believes and on such belief alleges that the relief
10 requested in this Complaint will redress the injury to RIVER WATCH and its members, prevent future
11 injury, and protect the interests of RIVER WATCH and its members which are or may be adversely
12 affected by CHEVRON's violations of the CWA alleged herein, as well as other State and Federal
13 standards.

14
15 **B. SECOND CLAIM FOR RELIEF - Violations of the RCRA**

16 **42 U.S.C. § 6972 (a)(1)(A)**

17 50. RIVER WATCH incorporates the allegations set forth above in Paragraphs 1 through 49 and
18 Exhibit B as though fully set forth herein. RIVER WATCH is informed and believes, and based on
19 such information and belief alleges:

20 51. RCRA § 7002(a)(1)(A), 42 U.S.C. § 6972 (a)(1)(A) permits an action against any person who
21 violates a PERMIT, STANDARD or REGULATION pursuant to the RCRA. Civil penalties may be
22 assessed against any person or entity in violation of this section of the RCRA, under 42 U.S.C. §§ 6928
23 (a) and (g).

24 52. CHEVRON's storage and disposal of toxic levels of petroleum and petroleum constituents at the
25 Facilities, defined as hazardous wastes under the RCRA, has caused the discharge of hazardous wastes
26 to soil and groundwater in violations of regulations regarding the use and disposal of hazardous wastes
27 (RCRA § 3004(d), 42 U.S.C. § 6924(d)), and the use and operation of USTs (RCRA § 9002(a), 42
28 U.S.C. § 6991(a)).

1 53. RIVER WATCH avers and believes, and on such belief alleges, that without the imposition of
2 appropriate civil penalties and the issuance of appropriate equitable relief, CHEVRON will continue to
3 violate a PERMIT, STANDARD or REGULATION pursuant to the RCRA, specifically, RCRA §
4 3004(d), 42 U.S.C. § 6924(d).

5 54. Continuing acts or failure to act by CHEVRON to address these violations will irreparably harm
6 RIVER WATCH and its members. RIVER WATCH avers and believes, and on such belief alleges, that
7 the relief requested in this Complaint will redress the injury to RIVER WATCH and its members,
8 prevent future injury, and protect the interests of RIVER WATCH and its members who are or may be
9 adversely affected by CHEVRON's violations of the RCRA as alleged in this Complaint, as well as other
10 State and Federal standards.

11
12 **C. THIRD CLAIM FOR RELIEF - Violations of the RCRA**

13 **42 U.S.C. § 6972(a)(1)(B)**

14 55. RIVER WATCH incorporates the allegations set forth above in Paragraphs 1 through 54 and
15 Exhibit B as though fully set forth herein. RIVER WATCH is informed and believes, and based on
16 such information and belief alleges:

17 56. RCRA § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B), provides that any person may commence a
18 civil action against any person or governmental entity including a past or present generator, transporter,
19 owner or operator of a treatment, storage or disposal facility who has contributed to the past or present
20 handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may
21 present an imminent and substantial endangerment to health or to the environment. Civil penalties may
22 be assessed against any person or entity in violation of this section, under the provisions of 42 U.S.C.
23 §§ 6928(a) and (g). The RCRA UST regulatory program is adopted and implemented in California
24 under the provisions governing the Underground Storage of Hazardous Substances (California Health
25 & Safety Code § 25280 et seq.).

26 57. CHEVRON owns and operates the Facilities identified in this Complaint at which it stores or has
27 stored, and transfers or has transferred, gasoline, diesel, fuel oil and mixed oils, and is now responsible
28 for remediation of these Facilities.

1 58. The Facilities either have USTs which are leaking, or in the past have leaked petroleum
2 chemicals including benzene, toluene, TPHg, ethylbenzene, xylenes, and MTBE into groundwater; or
3 petroleum products have been washed off the Facilities into nearby surface waters and ground waters.

4 59. Petroleum products are known to be hazardous to the environment, and if released into the
5 environment in sufficient quantity pose an imminent and substantial risk to public health and to the
6 environment. Constituent chemicals within these petroleum products such as benzene and toluene are
7 known carcinogens and/or reproductive toxins, and if released into the environment in sufficient
8 quantities, pose an imminent and substantial risk to public health and to the environment in general.

9 60. For purposes of the RCRA, petroleum products and their constituents: TPHg, benzene, toluene,
10 ethylbenzene, xylenes, and MTBE, are both "solid wastes" and "hazardous wastes" within the meaning
11 of the statute.

12 61. RIVER WATCH is informed and believes, and thereon alleges, that amounts of petroleum
13 products and their constituents, TPHg, benzene, toluene, ethylbenzene, xylenes, and/or MTBE, released
14 by CHEVRON at the Facilities are in sufficient quantity to pose an imminent and substantial risk to both
15 the environment and to human health.

16 62. Continuing acts or failure to act by CHEVRON to address these violations will irreparably harm
17 RIVER WATCH and its members, for which harm they have no plain, speedy or adequate remedy at
18 law. RIVER WATCH avers and believes and on such belief alleges, that the relief requested in this
19 Complaint will redress the injury to RIVER WATCH and its members who are or may be affected by
20 the violations of the RCRA as alleged in this Complaint.

21 22 **VII. RELIEF REQUESTED**

23 RIVER WATCH prays for judgment against CHEVRON and respectfully requests this Court
24 grant the following relief:


- 25 1. Declare CHEVRON to have violated and to be in violation of the CWA by reason of discharging
26 of hydrocarbon pollutants from a point source without a NPDES permit;

- 1 2. Issue an injunction ordering CHEVRON to immediately clean up the abate the Facilities as
2 identified in this Complaint in compliance with the CWA and applicable State and Federal
3 standards;
- 4 3. Order CHEVRON to pay the U.S. Treasury civil penalties of \$27,500.00 per violation per day
5 for its violations of the CWA;
- 6 4. Declare CHEVRON to have violated and to be in violation of the RCRA by reason of
7 discharging petroleum and petroleum products and constituents which are known carcinogens
8 and/or reproductive toxins in sufficient quantities to pose an imminent and substantial risk to
9 human health and the environment;
- 10 5. Enjoin CHEVRON from discharging petroleum products and petroleum constituents from the
11 Facilities, which petroleum products and constituents pose an imminent and substantial risk to
12 human health and the environment.
- 13 6. Order CHEVRON to comply with all substantive and procedural requirements of the RCRA:
- 14 7. Order CHEVRON to pay civil penalties of \$25,000.00 per violation per day, pursuant to
15 applicable RCRA provisions, including 42 U.S.C. §§ 6928(a) and (g), and/or to pay for
16 remediation projects to redress harm caused by CHEVRON's violations of the RCRA. (Each
17 of the above described violations of the RCRA subjects the violator to civil penalties on a per-
18 day - per violation basis. Civil penalties may be assessed for violations occurring within five (5)
19 years prior to the initiation of a citizen enforcement action);
- 20 8. Enter a judgment that CHEVRON is required to pay civil penalties and exemplary damages
21 according to proof;
- 22 9. Enter such preliminary injunctions, permanent injunctions or other orders pursuant to the RCRA
23 requiring CHEVRON to enjoin and abate the nuisance resulting from the discharge and release
24 of petroleum products and constituents from the Facilities, and to enjoin the migration of
25 petroleum products and constituents into soil and groundwater beneath the Facilities and adjacent
26 properties;

- 1 10. Impose injunctive relief requiring CHEVRON to immediately investigate, access and categorize
2 the extent of pollution occurring at the Facilities and to implement the best available technology
3 to remediate said pollution;
4 11. Impose injunctive relief requiring CHEVRON to immediately commence complete remediation
5 of the contamination at and adjacent to the Facilities once all contaminant plumes have been
6 adequately characterized;
7 12. Award costs (including reasonable attorney fees, expert fees, witness fees and consultant fees)
8 to RIVER WATCH as authorized under the CWA and the RCRA: and,
9 13. Order such other and further relief as this Court may deem appropriate.

10
11
12 DATED: February 11, 2009

LAW OFFICE OF JACK SILVER

13 
14 JACK SILVER
15 Attorney for Plaintiff
16 NORTHERN CALIFORNIA RIVER WATCH
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Via Registered Mail - Return Receipt Requested

July 18, 2008

David J. O'Reilly, CEO and President
Chevron Corporation
6001 Bollinger Canyon Road
San Ramon, CA 94583-2324

Gary P. Luquette, President
Chevron U.S.A., Inc.
6001 Bollinger Canyon Road
San Ramon, CA 94583

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. O' Reilly and Mr. Luquette:

1. Notice Under the Clean Water Act

Clean Water Act § 505(b), 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Clean Water Act § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of intent to sue to the alleged violator, the Environmental Protection Agency, and the State in which the violations occur.

On behalf of Northern California River Watch ("River Watch"), I am providing statutory notification to the Chevron Corporation and Chevron U.S.A., Inc. (hereafter "Chevron"), of River Watch's intention to initiate a civil action in federal court under the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq., in conjunction with Chevron's continuing operations at several of its Northern California current and former underground storage tank ("UST") sites as further identified in this Notice.

The Clean Water Act ("CWA") regulates the discharge of pollutants into waters of the United States. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of certain enumerated discharges such as those for which a National Pollutant Discharge Elimination System ("NPDES") permit has been issued. Citizen suits for violations of provisions of the CWA are authorized under 33 U.S.C. § 1365, following a notice that conforms to the requirements of subpart (b) of that section.

River Watch hereby places Chevron on notice that following the expiration of sixty (60) days from the date of this Notice, River Watch intends to bring suit in federal District Court against Chevron for Chevron's continuing violations of an "effluent standard or limitation", "permit, condition or requirement and/or an order issued by the Administrator or a State with respect to such standard or limitation", under CWA § 505(a)(1), 33 U.S.C. 1365(a)(1), and/or the Code of Federal Regulations, and/or the Basin Plan as adopted by the Regional Water Quality Control Board, by allowing petroleum hydrocarbons above State of California Maximum Contaminant Levels to be released and discharged into waters of the United States, specifically into Crow Creek (see site #1 below), into Boles Creek (see site #4 below), into Rohner Creek and/or the Eel River (see site #6 below), and other such surface waters as further investigation may disclose, without the benefit of any NPDES or other permit authorizing such discharges.

This Notice also addresses Chevron's failure to comply with the terms and conditions of California's General Industrial Storm Water Permit for Industrial Storm Water Discharges (WDID 228S003380), its illegal discharges of contaminated storm water from the service station sites identified in this Notice, its discharges of non-storm water pollutants from those sites in violation of effluent limitations, and its apparent violations of the procedural requirements of NPDES General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 97-03-DWQ and Water Quality Order No. 91-13-DWQ (as amended by Water Quality Order 92-12-DWQ) issued pursuant to CWA § 402(p), 33 U.S.C. § 1342(p) ("General Permit").

The activities and unauthorized discharges leading to these CWA violations are more fully described below with regard to each of the identified sites. Chevron is responsible for the CWA violations based upon its own conduct at each of the sites, and/or because Chevron has assumed legal responsibility to remediate one or more of the identified sites in situations where previous site owners or operators may have contributed to unauthorized discharges.

The dates of the violations correspond with the dates of each initial unauthorized release at each of the sites identified, although following each release the downgradient surface waters would not have been immediately impacted, but would have been contaminated at later dates consistent with the rate of offsite plume migration from each site through conduits or other preferential pathways or via surface migration of petroleum contamination during heavy rain events.

The violations set forth herein are alleged to be continuing in nature in that the sources of pollution impacting surface waters have not been eliminated to date. Pursuant to CWA § 309(d), 33 U.S.C. § 1319(d), each of the violations described herein subjects the violator to a penalty of up to \$27,500 per day per violation for each of the violations occurring within the five (5) year period prior to the initiation of a citizen enforcement action. In addition to civil penalties paid to the U.S. Treasury, River Watch will seek injunctive relief in the interest of preventing further violations of the CWA pursuant to CWA § 505(a) and § 505(d), 33 U.S.C. § 1365(a) and § 1365(d), and such other relief as is permitted by law. CWA § 505(d), 33 U.S.C. § 1365(d) also permits prevailing parties to recover costs and reasonable attorney fees.

II. Identification of Chevron Sites

1. Former Chevron Service Station #9-5607 5269 Crow Canyon Road, Castro Valley, California

This former Chevron service station site is located at the intersection of Crow Canyon Road and Waterford Place in an area of residential properties. The real property on which the service station is situated is currently owned by Kevin and Julie Hinkley.

This site functioned as a gasoline service station between approximately 1963 and 1990. In 1985 a discrepancy in inventory was detected leading to the discovery of a leak in the station's product storage and delivery system. A review of inventory records later established that approximately 670 gallons of gasoline had been released from the leaking system in the previous 5 months. After the unauthorized release was reported, 18 monitoring wells were eventually installed, 15 of which continue to be monitored. In October of 1990, the USTs were removed after the station was closed. The site is now occupied by an auto repair facility which has one 550 gallon UST for used oil.

A Corrective Action Plan was not submitted until May of 2000. At that time pure product (NAPL) had to be bailed out of one or more of the monitoring wells on a bi-weekly basis. NAPL levels since 2002 have been recorded at between 0.03 and 0.47 feet in thickness at monitoring well C-3. The contaminant plume was determined to be approximately 200 feet in length in a downgradient direction towards Crow Creek. Due to the proximity of Crow Creek to the site (45 feet east of monitoring well C-15 which is within the extent of the plume), there is serious concern that contaminated groundwater from the site has impacted the Creek, although the Creek itself apparently has not been tested for contamination.

In late 2002 a former engineering consultant recommended a two-phase extraction process to remediate the site. More recent evaluations have determined that a dual-phase system may have been planned for implementation (if found feasible) sometime in late 2007, 22 years after the initial release was discovered.

Records available for this site do not reflect whether engineering consultants have determined if sensitive receptors in the immediate area of the plume have been affected by the extent of pollution in adjacent soil and groundwater. In addition, there are no apparent preferential pathways studies, and no data indicating an aquifer impact assessment has been conducted. At the present time (based upon 3rd quarter monitoring), TPHg levels are as high as 56,000 ug/l, benzene is as high as 12,000 ug/l, and toluene is as high as 660 ug/l. Crow Creek has apparently not been tested for petroleum hydrocarbons. In August of 2005, the Alameda County Health Care Services oversight specialist for this site indicated, the "... plume... has migrated beneath the adjacent townhomes and likely impacted the downgradient creek." Other than initial over-excavation associated with the removal of the USTs in 1990, no remediation has been initiated since approximately 1987.

Accordingly, this is a situation for which River Watch must rely upon federal statutory provisions which authorize citizen suits when regulatory agency processes have not resulted in viable and timely solutions to the petroleum contaminant problems in Northern California communities.

**2. Former Chevron Station #9-3203
2026 North Texas Street, Fairfield, California**

This site is located on North Texas Street, south of Pacific Avenue, in a mixed area of residential and commercial properties. The site operated as a Chevron service station between 1971 and 1995 at which time Chevron's lease expired. In August of 1995 the product storage and dispensing facilities were removed from the site. At the present time the site continues as a gasoline station occupied by an active American Energy service station. The real property on which the service station is situated is owned by Andree A. Benson.

A Shell service station currently exists at 1990 North Texas Street, some 300 feet to the south of the site. The two sites have combined plumes which are monitored jointly by Gettler-Ryan and Blaine Tech Services. Separate phase hydrocarbons (LNAPL) have been recorded at MW-3 from 1993 to 2005, but apparently none since that time.

The first reported release occurred in approximately 1983 followed by the installation of monitoring wells during that year. However, subsurface soil investigation was not conducted until 1993. Other than initial over-excavation work, very little remediation has occurred over the past 24 years. Consultant's reports indicate the site is defined laterally, and that vertical delineation has been completed below 15 ft. bgs; however, there is no indication that an aquifer impact assessment has been accomplished.

In 1999 Chevron's engineering consultant Cambria completed a sensitive receptor survey, relying upon Department of Water Resources records to determine whether there were any threatened receptors within 2,000 feet of the site. The survey found no surface waters, domestic wells, hospitals, or schools. In March of 2001 a conduit study revealed that the North Aquaduct which runs down North Texas Street adjacent to sewer and water lines could act as a migratory pathway for hydrocarbons. The potential for plume migration along this Aquaduct was not deemed particularly great, and field testing was apparently not done.

Cambria has admitted in its RAP that monitored natural attenuation cannot remediate this site within a reasonable period of time. Relying upon a cost analysis, Cambria has determined that over-excavation would be too disruptive of ongoing business activity at and adjacent to the site. Thus, even though over-excavation would probably be the most effective means to eliminate the source of soil and groundwater pollution and the threat to the surrounding environment, Cambria recommends two-phase extraction as the most cost effective strategy for site cleanup.

At the present time (based upon October 2007 monitoring), the site has extremely high levels of petroleum hydrocarbons – as high as 120,000 ug/l at one of the wells, and 63,000 ug/l at another. Benzene has recently been found to be as high as 15,000 ug/l, and toluene as high as 10,000 ug/l. River Watch therefore remains concerned that the high levels of contaminants demand much more proactive remediation work than Cambria has recommended, and believes it is essential to actually test any likely preferential pathways (such as the Aquaduct) for the presence of contamination. In addition, River Watch would prefer that excavation of affected soil at the site be accomplished in order to eliminate the ongoing threat to groundwater. River watch also recommends that data be developed which attempts to determine the residual mass of contaminant within the plume so that

some ongoing objective measure of remediation progress might be provided along with estimates of an eventual closure date.

River Watch believes Chevron must work much more proactively to neutralize the soil and groundwater beneath and around the site by employing best available technology as required by the Basin Plan adopted by the Regional Water Quality Control Board. Given the relatively shallow depth of the plume, the best available technology seems to be further excavation.

**3. Former Chevron Service Station #9-2759
801 El Camino Real, San Bruno, California**

This site is one of three former service stations located at the intersection of El Camino Real and San Bruno Avenue which have been the location of gasoline sales for over 50 years. A Shell branded station was situated at 798 El Camino Real; an ExxonMobil (now Valero) station existed at 800 El Camino Real; and, Chevron had operated at 801 El Camino Real. The real property on which the Chevron station is situated is currently owned by Peter Chang and the G.W. Williams Company.

The first reported release was in 1987. In the following year the USTs were removed along with an undisclosed amount of impacted soil. Groundwater extraction and treatment commenced between 1991 and 1996, but the process removed only approximately 340 pounds of petroleum hydrocarbons with the filtering of over 2,000,000 gallons of groundwater. Quarterly groundwater monitoring occurred between 1989 and 2001 followed by semiannual monitoring from 2002 to the present. Finally in 2007, pilot testing occurred to determine the feasibility of specific remediation processes.

Currently, the work at the Chevron site is combined with petroleum contaminant monitoring at the adjacent Valero and Shell sites. As the plumes are commingled, one engineering consulting firm (Resource Environmental, LLC) is supervising the monitoring work at all three sites.

The commingled plume lies approximately 2,000 feet west of the San Francisco Bay. Groundwater flows east-southeast towards the Bay in an area of high hydraulic conductivity, where groundwater velocity can range as much as 300 feet per year. Four private irrigation wells have been located within 2,500 feet of the site, one as close as 720 feet to the east. Low levels of hydrocarbon impact have been detected in three of these four wells. In addition to groundwater contamination from the Chevron site, potential vapor impacts to the nearby residential units have been identified at the adjacent sites.

At the present time, 20 years after the first reported release, the lateral and vertical characterization of the commingled plume is still being assessed. The MTBE plume extends at least 400 feet downgradient from the Chevron site. Remediation of the Chevron site awaits a decision as to the most cost-effective cleanup method given the conditions. Meanwhile, groundwater concentrations of TPHg are as high as 43,000 ug/l as of the last available monitoring records of July of 2007. Benzene is as high as 7,300 ug/l, and toluene as high as 7,600 ug/l.

River Watch remains concerned that this is another site for which remediation efforts have long been deferred while regular contaminant monitoring has taken over as the principal activity. This site

continues to represent an immediate threat to domestic water supplies and environmental degradation by infiltration into San Francisco Bay.

River Watch seeks Chevron's use of the best available technology to insure that no surface water, aquifer or groundwater is further contaminated by this plume. River Watch would like to insure that the full delineation of the plume is accomplished without further delay; and would like to review current sensitive receptor and preferential pathway survey results.

**4. Current Chevron Service Station #9-3476
12 Weed Boulevard South, Weed, California**

This site is located at the intersection of Weed Boulevard South (Highway 97) and Main Street in an area of mixed residential and commercial properties. The site is a currently active Chevron-branded service station adjacent to several other service station facilities including an active Shell branded service station, and former ARCO and Union 76 stations. The real property on which the service station is situated is currently owned by the Mountain Supply Company of Redding, CA.

The first unauthorized release of petroleum hydrocarbons was detected in 1985 when the USTs were upgraded. In the following year monitoring wells were installed. In 1987 groundwater extraction was commenced in an attempt to remediate the soil and impacted groundwater. By August of 1996, with the extraction of over 3,200,000 gallons of groundwater, approximately 350 pounds of dissolved-phase hydrocarbons were removed along with 140 gallons of separate phase hydrocarbons (SPH or NAPL). A soil vapor extraction system was initiated in 1991 and ran intermittently until 2000 when it was deactivated due to poor hydrocarbon removal rates. The reports indicate the soil vapor extraction system removed only approximately 110 pounds of hydrocarbons as gasoline.

Engineering consultant Cambria initiated a two-phase extraction pilot test in 2004 to determine if such extraction processes would be feasible. The test established that two-phase extraction would be ineffective for the soil conditions.

Groundwater lies at between 6 and 20 feet bgs. It flows generally northward towards Boles Creek which is considered an 'at risk' sensitive receptor at approximately 300 to 400 feet downgradient to the north. NAPL has been detected in 2 of the monitoring wells since 2000. During the current quarter, approximately 0.50 gallons of LNAPL and water were removed from these wells by hand bailing.

At the present time very high levels of contamination are present in the wells. TPHd concentration levels are as high as 37,000 ug/l. TPHg levels were recorded at 38,000 ug/l in May of 2007. Toluene is currently as high as 760 ug/l, while benzene is virtually non-detect. There is no active remediation taking place to deal with the high levels of subsurface contamination. Engineering reports indicate that contaminant concentrations tend to diminish rapidly below 15 ft bgs, but there has been no recommendation to employ over-excavation to remove the contamination despite the infeasibility and ineffectiveness of the other remediation systems which been tried. It appears Chevron would prefer to continue its economic operations at this location while only monitoring and analysis occurs, regardless of the eventual environmental impact of plume migration.

The reports on file do not provide sensitive receptor survey information, nor do they recount whether conduit studies or preferential pathway studies have been conducted. In addition, there seems to be no information as to whether any aquifer impact assessment has been done. No data has been provided to assess the residual contaminant mass in the plume in order to have a benchmark against which the progress of further remediation might be gauged.

This, then, is another site for which River Watch believes that Chevron has failed to employ the best available technology towards the goals of full remediation.

**5. Chevron Service Station #9-3751
5502 Thornton Avenue, Newark, California**

This is an active service station site located on the southwest corner of Thornton Avenue and Cedar Boulevard. It lies in a commercial corridor, adjacent to a shopping center with small businesses nearby and residential properties south of the shopping center. The real property on which the service station is situated is currently owned by Jose and Marlu Vasquez.

A Chevron station was erected at the site in 1964. The original USTs were removed in 1978 during upgrading operations. Chevron sold the station in 1997 and it has been subsequently redeveloped as an independent service station.

The Alameda County Water District operates 2 municipal supply wells in the Newark Aquifer. The Darvon 1 well lies approximately 1,600 feet to the northeast of the site. The Cedar 2 well is located approximately 2,200 feet to the southeast. Groundwater is extracted from both municipal wells at rates of 3,300 gpm and 2,500 gpm respectively. The Aquifer has a relatively high hydraulic conductivity of 920 ft/day under pumping conditions due to the high permeability of the local soils. As a result, groundwater flow directions are influenced by the County's pumps. This influence affects the groundwater in and around the site. The Cedar 2 pump for example, will exert a draw-down of 3.2 feet in the groundwater of the site after being in operation for 8 days following a shut down period. The radius of influence of both of the municipal pumps is almost 6,000 linear feet.

The first leak at this site was reported in 1993. A site assessment was commenced in December of 1997. TPHg, BTEX, MTBE, TAME and TBA have been detected in groundwater. TPHg levels as recently as January of 2008 have been as high as 40,000 ug/l. Toluene is as high as 1,500 ug/l. MTBE is as high as 930 ug/l. Benzene is at 300 ug/l.

While Alameda County is rightfully concerned about the impact of the site's plume upon the municipal water which is delivered to its residents by its water supply system; and, while there must be adequate oversight concerning the progress of remediation, River Watch remains concerned that some of the more obvious remedies to the situation have yet to be recommended.

Perhaps because the site no longer belongs to Chevron, there is an interest in allowing the current owners to continue the business of gasoline sales. This seems to be another example, however, of deference to business interests as opposed to environmental concerns. Chevron's consultant takes the position that "(q)uarterly groundwater monitoring is proposed as an interim corrective action for the Newark Aquifer."

The reports provided by the consultant do not recommend any remediation process which would eliminate the threat to the Alameda County water supply. Such reports do not seem to investigate likely conduits or preferential pathways beneath the site, nor do they advance the recommendation that further excavation work to remove affected soils would likely remove threats to the environment. If current sensitive receptor surveys exist and conduit studies are available, River Watch would like to be provided with copies as part of its involvement in this matter. Beyond the delineation of this site, it seems pertinent to determine the mass of residual contamination so that some remediation timeline might be provided as a means of assessing the progress of clean up.

**6. Former Unocal Bulk Plant
359 Main Street, Fortuna, California**

This former Unocal bulk plant is located on a one-acre vacant lot in an industrial section of Fortuna. The site is bordered on the north by Main Street, to the south by railroad tracks, to the east by vacant land, and to the west by a former Chevron bulk plant. This site was utilized as a bulk storage facility from approximately 1924 to 1964. The first petroleum impact was detected in approximately 1974. The real property on which the plant is situated is currently owned by Larry and Frances Montgomery.

Gasoline and diesel constituents have impacted soil and groundwater at the site as a result of releases in 1974 and 1978, the latter of which apparently led to several explosions in February of 1978 – one in a bowling alley related to gasoline vapors emanating from the Unocal site along sewer lines beneath Main Street. Various other releases are presumed to have occurred over the years due to bulk fuel operations. Regulatory agencies first received reports of soil and groundwater impacts in approximately 1988. Following contact by the North Coast Regional Water Quality Control Board in 1990, over-excavation to the extent of 2,700 tons of impacted soil was finally accomplished between 1997 and 2000.

Monitoring wells were installed beginning in 1991. Concentrations of contaminants have been measured since that time. NAPL was found at one of the wells (MW-4) as recently as 2002. In 1993 soil vapor extraction pilot testing determined that due to soil composition, vapor extraction might not be feasible. Further excavation work was done in 1997 after visual and olfactory indications of petroleum prompted specific areas of soil removal. Over the course of the next several years, 1,600 tons of impacted soil was placed on plastic. Finally in 2002 the soil was removed after the engineering consultant was advised by the Regional Water Quality Control Board that this soil could not be used as backfill, but had to be shipped to a landfill facility, and that clean backfill had to be imported to the site.

The site lies in the Eel River Valley. The Eel River is approximately 600 feet to the southwest, while Rohner Creek lies approximately 500 feet to the northeast. The shallow aquifer zone flows generally towards the south/southwest (towards the Eel River), while the deep aquifer zone at the site flows towards the east (towards Rohner Creek).

Fortuna is supplied by municipal water from 3 wells located on Eel River Drive, several miles from the site. The shallow groundwater at the site has a designated beneficial use as a drinking water supply in the North Coast Water Quality Control Board's Basin Plan. No sensitive receptor survey

has apparently been conducted to determine whether there are private domestic wells at risk from the site's plume. A multi-phase extraction pilot test was initiated in 2005. The soil composition does not, however, seem conducive for the removal of residual contaminants.

This site remains problematic due to the recalcitrance of the soils to contemporary methods of subsurface remediation processes. The contaminated areas of this former plant are laterally extensive, but seem to be limited to vertical depths above 20 feet bgs. In view of the persistently high concentrations of petroleum constituents (based on August, 2007 monitoring – 72,000 ug/l for TPHg; 7,300 ug/l for TPHd; 11,000 ug/l for toluene, and 6,800 for benzene) it would seem that further excavation work is essential to remove the environmental risks this site represents. Chevron's consultant seems content to do little more than investigate and monitor while this plume continues to migrate downgradient towards surface waters.

As with the other sites listed above, River Watch believes Chevron must take its remediation work much more seriously at this site and conduct preferential pathway studies and conduit studies to determine whether the Main Street sewer continues to provide offsite access for contaminants including harmful vapors, and an aquifer impact assessment. While records may no longer exist to determine the residual contamination based upon lost inventories, certainly with existing soil density data, an integration calculation can be done to compute the mass of the plume. This would provide a basis for determining removal progress – if active remediation ever takes place.

III. Regulatory Standards

Water Quality Objectives exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions need to be considered that evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Existing and potential beneficial uses of area groundwater include domestic, agricultural, industrial and municipal water supply.

IV. Violations

Between approximately the year 2003 and the date of this Notice, Chevron has caused or permitted, causes or permits, or threatens to cause or permit, petroleum contaminants, petroleum constituents and other hazardous wastes to be discharged or deposited where it is, or probably will be, discharged into waters of the State and now creates, or threatens to create, a condition of pollution or nuisance. This Notice covers the statutory period of limitations to date running from July 18, 2003 through July 18, 2008. The discharge and threatened discharge of such petroleum waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

The provisions of the CWA govern the discharges of hazardous substances, including petroleum hydrocarbons, into surface waters of the United States.

Chevron's use and storage of petroleum at the 6 sites identified above has allowed significant quantities of hazardous petroleum constituents to be released or discharged into soil and groundwater in violation of the provisions of the CWA and California's UST regulatory programs including, but not limited to provisions governing general operating requirements for USTs, release detection and prevention requirements, release reporting and investigation requirements, and release response and corrective action requirements. Such discharges have been allowed to impact waters of the United States in violation of the CWA.

The violations of the CWA as alleged in this Notice are knowing and intentional in that Chevron has used, stored and sold petroleum products at the 6 sites identified above which are known to contain hazardous substances, and it has intended that such products will be sold to and used by the public. Chevron has known of the contamination since at least 2003, and has also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the sites, and to continually contaminate and re-contaminate actual and potential sources of drinking water as well as surface waters.

The type of violations of the CWA alleged herein are a major cause of the continuing decline in water quality and pose a continuing threat to existing and future drinking water supplies of Northern California. With every discharge, groundwater supplies are contaminated. These discharges can and must be controlled in order for the groundwater supply to be returned to a safe source of drinking water.

In addition to the violations set forth above, this Notice is intended to cover all of Chevron's violations of the CWA at the 6 sites identified above evidenced by information which becomes available to River Watch after the date of this Notice.

V. Identification of Northern California River Watch

The entity bringing this Notice is Northern California River Watch, a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 6741 Sebastopol Avenue, Suite 140, Sebastopol, CA, 95472 - telephone (707) 824-4372.

Chevron's violations of the CWA as set forth in this Notice affect the health and enjoyment of members of River Watch who reside and recreate in the affected watershed areas. Those members use the watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of these natural resources are conditions specifically impaired by the violations of Chevron alleged in this Notice.

VI. Contact Information

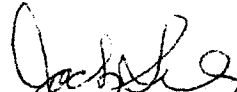
River Watch has retained legal counsel with regard to the issues raised in this Notice. All communications should be addressed as follows:

Jack Silver, Esquire
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. (707) 527-8175
Fax (707) 527-8675

VII. Conclusion

River Watch believes this Notice sufficiently states the grounds for filing suit under the statutory and regulatory provisions of the CWA as to the sites referenced above. At the close of the notice period or shortly thereafter, River Watch intends to file a suit against Chevron and the individual real property owners and/or site operators under the provisions of the CWA for each of the violations as alleged herein. River Watch is willing to discuss effective remedies for the violations referenced in this Notice, and encourages Chevron, if it so wishes, to initiate those discussions immediately so that we might be on track to resolving the issues before the end of the notice period. River Watch will not delay the filing of a lawsuit if discussions have not commenced by the time the notice period ends.

Very truly yours,



Jack Silver

JS:lha

cc:

Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St.
San Francisco, CA 94105

Dorothy R. Rice, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Mark Leary, Executive Director
Calif. Integrated Waste Management Board
1001 "I" Street
Sacramento, CA 95814

The Prentice-Hall Corporation System, Inc.
Registered Agent for
Chevron Corporation
Chevron U.S.A., Inc.
P.O. Box 526036
Sacramento, CA 95852

Kevin and Julie Hinkley [Site #1]
5269 Crow Canyon Road
Castro Valley, CA 94552

Andree A. Benson [Site #2]
34 Creekridge Court
San Mateo, CA 94402

Peter Chang [Site #3]
G.W. Williams Company
3190 Clearview Way
San Mateo, CA 94402-3752

Mountain County Supply Co. [Site #4]
P.O. Box 491687
Redding, CA 96049

Jose and Marlu Vasquez [Site #5]
37201 Aleppo Drive
Newark, CA 94560

Larry and Frances Montgomery [Site #6]
P.O. Box 285
Houston, TX 77007-0285

Station operator
5502 Thornton Avenue
Newark, CA 94560

Station operator
12 Weed Boulevard South
Weed, CA 96094

Robert C. Goodman, Esquire
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311 California Street
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P.O. Box 5469 Santa Rosa, California 95402
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lhm28843@sbcglobal.net



Via Registered Mail - Return Receipt Requested

July 18, 2008

David J. O'Reilly, CEO and President
Chevron Corporation
6001 Bollinger Canyon Road
San Ramon, CA 94583-2324

Gary P. Luquette, President
Chevron U.S.A., Inc.
6001 Bollinger Canyon Road
San Ramon, CA 94583

Re: Notice of Violations and Intent to File Suit under the Resource Conservation and Recovery Act

Dear Mr. O'Reilly and Mr. Luquette:

I. Notice Under the Resource Conservation and Recovery Act

The Federal Resource Conservation and Recovery Act ("RCRA") 42 U.S.C. § 6901 et seq., requires that sixty (60) days prior to the initiation of an action for violation of permit, standard, regulation, condition, requirement, prohibition or order effective under RCRA, a private party must give notice of the violation to the alleged violator, the Administrator of the U.S. Environmental Protection Agency and the State in which the violation is alleged to have occurred (42 U.S.C. § 6972(b)(1)(A)). The RCRA also requires that a private party must provide ninety (90) days prior notice to the alleged violator, the Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred before initiating an action for an imminent and substantial endangerment to human health or the environment. (42 U.S.C. § 6972(b)(2)(A)).

On behalf of Northern California River Watch ("River Watch"), I am providing statutory notification to the Chevron Corporation and Chevron U.S.A., Inc. (hereafter "Chevron") of continuing and ongoing violations of the RCRA in conjunction with Chevron's operations of the Northern California underground storage tank ("UST") sites as further identified in this Notice.

By copy of this Notice I am also providing notice of these same violations to each of the owners of the real property on which the current and former service stations are or were situated. Under the provisions of the RCRA, the current owners of real property contributing to environmental pollution may be legally responsible for damages related to such pollution and its costs of remediation.

River Watch hereby notifies Chevron that at the expiration of the appropriate notice periods under the RCRA, River Watch intends to commence a civil action against Chevron on the following grounds:

1. Chevron's use and storage of petroleum products at the gasoline station sites identified in this Notice has and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to the RCRA regarding storage of petroleum in underground storage tanks ("USTs") [42 U.S.C. § 6972(a)(1)(A)];
2. Chevron's operations at the gasoline station sites identified in this Notice have caused and continue to cause petroleum contamination of soil and groundwater which presents an imminent and substantial endangerment to human health and the environment [42 U.S.C. § 6972(a)(1)(B)].

II. Identification of Chevron Sites

1. **Former Chevron Service Station #9-5607
5269 Crow Canyon Road, Castro Valley, California**

This former Chevron service station site is located at the intersection of Crow Canyon Road and Waterford Place in an area of residential properties. The real property on which the service station is situated is currently owned by Kevin and Julie Hinkley.

This site functioned as a gasoline service station between approximately 1963 and 1990. In 1985 a discrepancy in inventory was detected leading to the discovery of a leak in the station's product storage and delivery system. A review of inventory records later established that approximately 670 gallons of gasoline had been released from the leaking system in the previous 5 months. After the unauthorized release was reported, 18 monitoring wells were eventually installed, 15 of which continue to be monitored. In October of 1990, the USTs were removed after the station was closed. The site is now occupied by an auto repair facility which has one 550 gallon UST for used oil.

A Corrective Action Plan was not submitted until May of 2000. At that time pure product (NAPL) had to be bailed out of one or more of the monitoring wells on a bi-weekly basis. NAPL levels since 2002 have been recorded at between 0.03 and 0.47 feet in thickness at monitoring well C-3. The contaminant plume was determined to be approximately 200 feet in length in a downgradient direction towards Crow Creek. Due to the proximity of Crow Creek to the site (45 feet east of monitoring well C-15 which is within the extent of the plume), there is serious concern that

contaminated groundwater from the site has impacted the Creek, although the Creek itself seems not to have been tested for contamination.

In late 2002 a former engineering consultant recommended a two-phase extraction process to remediate the site. More recent evaluations have determined that a dual-phase system may have been planned for implementation (if found feasible) sometime in late 2007, 22 years after the initial release was discovered.

Records available for this site do not reflect whether engineering consultants have determined if sensitive receptors in the immediate area of the plume have been affected by the extent of pollution in adjacent soil and groundwater. In addition, there are no apparent preferential pathways studies, and no data indicating an aquifer impact assessment has been conducted. At the present time (based upon 3rd quarter monitoring), TPHg levels are as high as 56,000 ug/l, benzene is as high as 12,000 ug/l, and toluene is as high as 660 ug/l. Crow Creek has apparently not been tested for petroleum hydrocarbons. In August of 2005, the Alameda County Health Care Services oversight specialist for this site indicated, the "... plume... has migrated beneath the adjacent townhomes and likely impacted the downgradient creek." Other than initial over-excavation associated with the removal of the USTs in 1990, no remediation has been initiated since approximately 1987.

Accordingly, this is a situation for which River Watch must rely upon federal statutory provisions which authorize citizen suits when regulatory agency processes have not resulted in viable and timely solutions to the petroleum contaminant problems in our Northern California communities.

**2. Former Chevron Station #9-3203
2026 North Texas Street, Fairfield, California**

This site is located on North Texas Street, south of Pacific Avenue, in a mixed area of residential and commercial properties. The site operated as a Chevron service station between 1971 and 1995 at which time Chevron's lease expired. In August of 1995 the product storage and dispensing facilities were removed from the site. At the present time the site continues as a gasoline station occupied by an active American Energy service station. The real property on which the service station is situated is owned by Andree A. Benson.

A Shell service station currently exists at 1990 North Texas Street, some 300 feet to the south of the site. The two sites have combined plumes which are monitored jointly by Gettler-Ryan and Blaine Tech Services. Separate phase hydrocarbons (LNAPL) have been recorded at MW-3 from 1993 to 2005, but apparently none since that time.

The first reported release occurred in approximately 1983 followed by the installation of monitoring wells during that year. However, subsurface soil investigation was not conducted until 1993. Other than initial over-excavation work, very little remediation has occurred over the past 24 years. Consultant's reports indicate the site is defined laterally, and that vertical delineation has been completed below 15 ft. bgs; however, there is no indication that an aquifer impact assessment has been accomplished.

In 1999 Chevron's engineering consultant Cambria completed a sensitive receptor survey, relying upon Department of Water Resources records to determine whether there were any threatened receptors within 2,000 feet of the site. The survey found no surface waters, domestic wells, hospitals, or schools. In March of 2001 a conduit study revealed that the North Aquaduct which runs down North Texas Street adjacent to sewer and water lines could act as a migratory pathway for hydrocarbons. The potential for plume migration along this Aquaduct was not deemed particularly great, and field testing was apparently not done.

Cambria has admitted in its RAP that monitored natural attenuation cannot remediate this site within a reasonable period of time. Relying upon a cost analysis, Cambria has determined that over-excavation would be too disruptive of ongoing business activity at and adjacent to the site. Thus, even though over-excavation would probably be the most effective means to eliminate the source of soil and groundwater pollution and the threat to the surrounding environment, Cambria recommends two-phase extraction as the most cost effective strategy for site cleanup. .

At the present time (based upon October 2007 monitoring), the site has extremely high levels of petroleum hydrocarbons – as high as 120,000 ug/l at one of the wells, and 63,000 ug/l at another. Benzene has recently been found to be as high as 15,000 ug/l, and toluene as high as 10,000 ug/l. River Watch therefore remains concerned that the high levels of contaminants demand much more proactive remediation work than Cambria has recommended, and believes it is essential to actually test any likely preferential pathways (such as the Aquaduct) for the presence of contamination. In addition, River Watch would prefer that excavation of affected soil at the site be accomplished in order to eliminate the ongoing threat to groundwater. River watch also recommends that data be developed which attempts to determine the residual mass of contaminant within the plume so that some ongoing objective measure of remediation progress might be provided along with estimates of an eventual closure date.

River Watch believes Chevron must work much more proactively to neutralize the soil and groundwater beneath and around the site by employing best available technology as required by the Basin Plan adopted by the Regional Water Quality Control Board. Given the relatively shallow depth of the plume, the best available technology seems to be further excavation.

**3. Former Chevron Service Station #9-2759
801 El Camino Real, San Bruno, California**

This site is 1 of 3 former service stations located at the intersection of El Camino Real and San Bruno Avenue which have been the location of gasoline sales for over 50 years. A Shell branded station was situated at 798 El Camino Real; an ExxonMobil (now Valero) station existed at 800 El Camino Real; and, Chevron had operated at 801 El Camino Real. The real property on which the Chevron station is situated is currently owned by Peter Chang and the G.W. Williams Company.

The first reported release was in 1987. In the following year the USTs were removed along with an undisclosed amount of impacted soil. Groundwater extraction and treatment commenced between 1991 and 1996, but the process removed only approximately 340 pounds of petroleum

hydrocarbons with the filtering of over 2,000,000 gallons of groundwater. Quarterly groundwater monitoring occurred between 1989 and 2001 followed by semiannual monitoring from 2002 to the present. Finally in 2007, pilot testing occurred to determine the feasibility of specific remediation processes.

Currently, the work at the Chevron site is combined with petroleum contaminant monitoring at the adjacent Valero and Shell sites. As the plumes are commingled, one engineering consulting firm (Resource Environmental, LLC) is supervising the monitoring work at all 3 sites.

The commingled plume lies approximately 2,000 feet west of the San Francisco Bay. Groundwater flows east-southeast towards the Bay in an area of high hydraulic conductivity, where groundwater velocity can range as much as 300 feet per year. Four private irrigation wells have been located within 2,500 feet of the site, one as close as 720 feet to the east. Low levels of hydrocarbon impact have been detected in 3 of these 4 wells. In addition to groundwater contamination from the Chevron site, potential vapor impacts to the nearby residential units have been identified at the adjacent sites.

At the present time, 20 years after the first reported release, the lateral and vertical characterization of the commingled plume is still being assessed. The MTBE plume extends at least 400 feet downgradient from the Chevron site. Remediation of the Chevron site awaits a decision as to the most cost-effective cleanup method given the conditions. Meanwhile, groundwater concentrations of TPHg are as high as 43,000 ug/l as of the last available monitoring records of July of 2007. Benzene is as high as 7,300 ug/l, and toluene as high as 7,600 ug/l.

River Watch remains concerned that this is another site for which remediation efforts have long been deferred while regular contaminant monitoring has taken over as the principal activity. This site continues to represent an immediate threat to domestic water supplies and environmental degradation by infiltration into San Francisco Bay.

River Watch seeks Chevron's use of the best available technology to insure that no surface water, aquifer or groundwater is further contaminated by this plume. River Watch would like to insure that the full delineation of the plume is accomplished without further delay; and would like to review current sensitive receptor and preferential pathway survey results.

**4. Current Chevron Service Station #9-3476
12 Weed Boulevard South, Weed, California**

This site is located at the intersection of Weed Boulevard South (Highway 97) and Main Street in an area of mixed residential and commercial properties. The site is a currently active Chevron-branded service station adjacent to several other service station facilities including an active Shell branded service station, and former ARCO and Union 76 stations. The real property on which the service station is situated is currently owned by the Mountain Supply Company of Redding, CA.

The first unauthorized release of petroleum hydrocarbons was detected in 1985 when the USTs were upgraded. In the following year monitoring wells were installed. In 1987 groundwater extraction was commenced in an attempt to remediate the soil and impacted groundwater. By August of 1996, with the extraction of over 3,200,000 gallons of groundwater, approximately 350 pounds of dissolved-phase hydrocarbons were removed along with 140 gallons of separate phase hydrocarbons (SPH or NAPL). A soil vapor extraction system was initiated in 1991 and ran intermittently until 2000 when it was deactivated due to poor hydrocarbon removal rates. The reports indicate the soil vapor extraction system removed only approximately 110 pounds of hydrocarbons as gasoline.

Engineering consultant Cambria initiated a two-phase extraction pilot test in 2004 to determine if such extraction processes would be feasible. The test established that two-phase extraction would be ineffective for the soil conditions.

Groundwater lies at between 6 and 20 feet bgs. It flows generally northward towards Boles Creek which is considered an 'at risk' sensitive receptor at approximately 300 to 400 feet downgradient to the north. NAPL has been detected in 2 of the monitoring wells since 2000. During the current quarter, approximately 0.50 gallons of LNAPL and water were removed from these wells by hand bailing.

At the present time very high levels of contamination are present in the wells. TPHd concentration levels are as high as 37,000 ug/l. TPHg levels were recorded at 38,000 ug/l in May of 2007. Toluene is currently as high as 760 ug/l, while benzene is virtually non-detect. There is no active remediation taking place to deal with the high levels of subsurface contamination. Engineering reports indicate that contaminant concentrations tend to diminish rapidly below 15 ft bgs, but there has been no recommendation to employ over-excavation to remove the contamination despite the infeasibility and ineffectiveness of the other remediation systems which been tried. It appears Chevron would prefer to continue its economic operations at this location while only monitoring and analysis occurs, regardless of the eventual environmental impact of plume migration.

The reports on file do not provide sensitive receptor survey information, nor do they recount whether conduit studies or preferential pathway studies have been conducted. In addition, there seems to be no information as to whether any aquifer impact assessment has been done. No data has been provided to assess the residual contaminant mass in the plume in order to have a benchmark against which the progress of further remediation might be gauged.

This, then, is another site for which River Watch believes that Chevron has failed to employ the best available technology towards the goals of full remediation.

**5. Chevron Service Station #9-3751
5502 Thornton Avenue, Newark, California**

This is an active service station site located on the southwest corner of Thornton Avenue and Cedar Boulevard. It is in a commercial area, adjacent to a shopping center with small businesses nearby

and residential properties south of the shopping center. The real property on which the service station is situated is currently owned by Jose and Marlu Vasquez.

A Chevron station was erected at the site in 1964. The original USTs were removed in 1978 during upgrading operations. Chevron sold the station in 1997 and it has been subsequently redeveloped as an independent service station.

The Alameda County Water District operates 2 municipal supply wells in the Newark Aquifer. The Darvon 1 well lies approximately 1,600 feet to the northeast of the site. The Cedar 2 well is located approximately 2,200 feet to the southeast. Groundwater is extracted from both municipal wells at rates of 3,300 gpm and 2,500 gpm respectively. The Aquifer has a relatively high hydraulic conductivity of 920 ft/day under pumping conditions due to the high permeability of the local soils. As a result, groundwater flow directions are influenced by the County's pumps. This influence affects the groundwater in and around the site. The Cedar 2 pump for example, will exert a draw-down of 3.2 feet in the groundwater of the site after being in operation for 8 days following a shut down period. The radius of influence of both of the municipal pumps is almost 6,000 linear feet.

The first leak at this site was reported in 1993. A site assessment was commenced in December of 1997. TPHg, BTEX, MTBE, TAME and TBA have been detected in groundwater. TPHg levels as recently as January of 2008 have been as high as 40,000 ug/l. Toluene is as high as 1,500 ug/l. MTBE is as high as 930 ug/l. Benzene is at 300 ug/l.

While Alameda County is rightfully concerned about the impact of the site plume upon the municipal water which is delivered to its residents by its water supply system; and, while there must be adequate oversight concerning the progress of remediation, River Watch remains concerned that some of the more obvious remedies to the situation have yet to be recommended.

Perhaps because the site no longer belongs to Chevron, there is an interest in allowing the current owners to continue the business of gasoline sales. This seems to be another example, however, of deference to business interests as opposed to environmental concerns. Chevron's consultant takes the position that "(q)uarterly groundwater monitoring is proposed as an interim corrective action for the Newark Aquifer."

The reports provided by the consultant do not recommend any remediation process which would eliminate the threat to the Alameda County water supply. Such reports do not seem to investigate likely conduits or preferential pathways beneath the site, nor do they advance the recommendation that further excavation work to remove affected soils would likely remove threats to the environment. If current sensitive receptor surveys exist and conduit studies are available, River Watch would like to be provided with copies as part of its involvement in this matter. Beyond the delineation of this site, it seems pertinent to determine the mass of residual contamination so that some remediation timeline might be provided as a means of assessing the progress of clean up.

**6. Former Unocal Bulk Plant
359 Main Street, Fortuna, California**

This former Unocal bulk plant is located on a one-acre vacant lot in an industrial section of Fortuna. The site is bordered on the north by Main Street, to the south by railroad tracks, to the east by vacant land, and to the west by a former Chevron bulk plant. This site was utilized as a bulk storage facility from approximately 1924 to 1964. The first petroleum impact was detected in approximately 1974. The real property on which the plant is situated is currently owned by Larry and Frances Montgomery.

Gasoline and diesel constituents have impacted soil and groundwater at the site as a result of releases in 1974 and 1978, the latter of which apparently led to several explosions in February of 1978 – one in a bowling alley related to gasoline vapors emanating from the Unocal site along sewer lines beneath Main Street. Various other releases are presumed to have occurred over the years due to bulk fuel operations. Regulatory agencies first received reports of soil and groundwater impacts in approximately 1988. Following contact by the North Coast Regional Water Quality Control Board in 1990, over-excavation to the extent of 2,700 tons of impacted soil was finally accomplished between 1997 and 2000.

Monitoring wells were installed beginning in 1991. Concentrations of contaminants have been measured since that time. NAPL was found at one of the wells (MW-4) as recently as 2002. In 1993 soil vapor extraction pilot testing determined that due to soil composition, vapor extraction might not be feasible. Further excavation work was done in 1997 after visual and olfactory indications of petroleum prompted specific areas of soil removal. Over the course of the next several years, 1,600 tons of impacted soil was placed on plastic. Finally in 2002 the soil was removed after the engineering consultant was advised by the Regional Water Quality Control Board that this soil could not be used as backfill, but had to be shipped to a landfill facility, and that clean backfill had to be imported to the site.

The site lies in the Eel River Valley. The Eel River is approximately 600 feet to the southwest, while Rohner Creek lies approximately 500 feet to the northeast. The shallow aquifer zone flows generally towards the south/southwest (towards the Eel River), while the deep aquifer zone at the site flows towards the east (towards Rohner Creek).

Fortuna is supplied by municipal water from 3 wells located on Eel River Drive, several miles from the site. The shallow groundwater at the site has a designated beneficial use as a drinking water supply in the North Coast Water Quality Control Board's Basin Plan. No sensitive receptor survey has apparently been conducted to determine whether there are private domestic wells at risk from the site's plume. A multi-phase extraction pilot test was initiated in 2005. The soil composition does not, however, seem conducive for the removal of residual contaminants.

This site remains problematic due to the recalcitrance of the soils to contemporary methods of subsurface remediation processes. The contaminated areas of this former plant are laterally extensive, but seem to be limited to vertical depths above 20 feet bgs. In view of the persistently

high concentrations of petroleum constituents (based on August, 2007 monitoring – 72,000 ug/l for TPHg; 7,300 ug/l for TPHd; 11,000 ug/l for toluene, and 6,800 for benzene) it would seem that further excavation work is essential to remove the environmental risks this site represents. Chevron's consultant seems content to do little more than investigate and monitor while this plume continues to migrate downgradient towards surface waters.

As with the other sites listed above, River Watch believes Chevron must take its remediation work much more seriously at this site and conduct preferential pathway studies and conduit studies to determine whether the Main Street sewer continues to provide offsite access for contaminants including harmful vapors, and an aquifer impact assessment. While records may no longer exist to determine the residual contamination based upon lost inventories, certainly with existing soil density data, an integration calculation can be done to compute the mass of the plume. This would provide a basis for determining removal progress – if active remediation ever takes place.

III. Regulatory Standards

Water Quality Objectives exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions need to be considered that evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Existing and potential beneficial uses of area groundwater include domestic, agricultural, industrial and municipal water supply.

The Regional Water Quality Control Board has adopted a Water Quality Control Plan or Basin Plan, which designates all surface and groundwater within the North Coast and San Francisco Bay regions as capable of supporting domestic water supply. The Board has adopted Maximum Contaminant Levels ("MCLs") and/or Water Quality Objectives ("WQOs") for petroleum constituents in surface and groundwater within the region of 50 ppb for TPHg, 1 ppb for benzene, 150 ppb for toluene and 13 ppb for MTBE.

IV. Violations

A. Violations of Permits, Standards and Regulations - [42 U.S.C. § 6972(a)(1)(A)]

Between approximately 2003 and the date of this Notice, Chevron has caused or permitted, causes or permits, or threatens to cause or permit petroleum contaminants, petroleum constituents and other hazardous waste to be discharged or deposited where it is, or probably will be, discharged into waters of the State and now creates, or threatens to create, a condition of pollution or nuisance. This Notice covers the statutory period of limitations to date running from July 18, 2003 through July 18, 2008. The discharge and threatened discharge of such petroleum waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

Provisions of the RCRA govern the use and operation of USTs used for storage of petroleum products (subchapter IX, 42 U.S.C. § 6991 et seq.). The RCRA UST regulatory program is adopted and implemented in California under the State Underground Storage of Hazardous Substance Account Act (California Health & Safety Code § 25280 et seq.).

Chevron's use and storage of petroleum at the 6 sites identified above has allowed significant quantities of hazardous petroleum constituents to be released or discharged into soil and groundwater in violation of provisions of the RCRA and California's UST regulatory programs including, but not limited to, provisions governing general operating requirements for USTs, release detection and prevention requirements, release reporting and investigation requirements, and release response and corrective action requirements.

Specifically, Chevron is responsible for the following statutory violations:

1. Failure to prevent a release, in violation of 40 CFR §§ 280.30, 280.31 and California Health & Safety Code §§ 25292.1(a) - (c), 25292.3(a) and (b).
2. Failure to properly detect and monitor releases, in violation of 40 CFR §§ 280.40 - 280.44 and California Health & Safety Code § 25292.
3. Failure to properly report and keep records of the release, in violation of 40 CFR §§ 280.34, 280.50, 280.52, 280.53, 280.63(b) and California Health & Safety Code §§ 25289, 25293 and 25295(a)(1).
4. Failure to take proper corrective action, in violation of 40 CFR §§ 280.53, 280.60 - 280.66 and California Health & Safety Code § 25295(a)(1).

B. Imminent and Substantial Endangerment - [42 U.S.C. § 6972(a)(1)(B)]

This Notice covers the statutory period of limitations to date running from July 18, 2003 through July 18, 2008. During that time, and well before, Chevron has used and stored, and continues to use and store, petroleum products at the 6 sites identified herein, in a manner which has allowed significant quantities of hazardous petroleum constituents to be discharged to soil and groundwater beneath each of the sites and also beneath adjacent properties. The contaminant levels of TPHg, benzene, toluene, and MTBE in groundwater at the sites are significantly greater than the allowable MCL and/or WQO for said constituents. Benzene, MTBE, TAME, and TBA are known or suspected carcinogens. Toluene is a reproductive toxin. Ethylbenzene, methanol and xylene are live toxins. All are known to harm both plants and animals. In their concentrations at these sites, these pollutants are creating an imminent and substantial endangerment to public health and the environment.

The violations alleged in this Notice are knowing and intentional in that Chevron has used, stored and sold petroleum products at the 6 sites identified herein which are known to contain hazardous substances, and has intended that such products will be sold to and used by the public. Chevron has known of the contamination since at least 2003, and has also known that failing to promptly

remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the sites, and to continually contaminate and re-contaminate actual and potential sources of drinking water

Violations of the RCRA of the type alleged herein are a major cause of the continuing decline in water quality and pose a continuing threat to existing and future drinking water supplies of Northern California. With every discharge groundwater supplies are contaminated. These discharges can and must be controlled in order for the groundwater supply to be returned to a safe source of drinking water.

In addition to the violations set forth above, this Notice is intended to cover all violations of the RCRA evidenced by information which becomes available to River Watch after the date of this Notice.

V. Identification of Northern California River Watch

The entity bringing this Notice is Northern California River Watch, a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 6741 Sebastopol Avenue, Suite 140, Sebastopol, CA, 95472 - telephone (707) 824-4372.

The violations of Chevron as set forth in this Notice affect the health and enjoyment of members of River Watch who reside and recreate in the affected watershed areas. Those members use the watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are conditions specifically impaired by Chevron's violations of the RCRA as set forth in this Notice.

VI. Contact Information

River Watch has retained legal counsel with regard to the issues raised in this Notice. All communications should be addressed as follows:


Jack Silver, Esquire
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. (707) 527-8175 / Fax (707) 527-8675

VII. Conclusion

River Watch believes this Notice sufficiently states grounds for filing suit under the statutory and regulatory provisions of the RCRA as to the 6 sites referenced above. At the close of the notice

periods or shortly thereafter, River Watch intends to file a suit against Chevron and the individual real property owners and/or site operators under the provisions of the RCRA for each of the violations as alleged herein. River Watch is willing to discuss effective remedies for the violations referenced in this Notice, and encourages Chevron, if it so wishes, to initiate those discussions immediately so that we might be on track to resolving the issues before the end of the notice period. River Watch will not delay the filing of a lawsuit if discussions have not commenced by the time the notice period ends.

Very truly yours,


Jack Silver

JS:lha

cc:

Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency, Region 9
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San Francisco, CA 94105

Dorothy R. Rice, Executive Director
State Water Resources Control Board
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Mark Leary, Executive Director
California Integrated Waste Management Board
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Registered Agent for
Chevron Corporation
Chevron U.S.A., Inc.
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**Citizen Suit Coordinator
U.S. Dept. of Justice
Environmental & Natural Resource Division
Law and Policy Section**

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